

be considered until the requested information is furnished.

**§ 10.439 What is addressed at a pre-recoupment hearing?**

At a pre-recoupment hearing, the OWCP representative will consider all issues in the claim on which a formal decision has been issued. Such a hearing will thus fulfill OWCP's obligation to provide pre-recoupment rights and a hearing under 5 U.S.C. 8124(b). Pre-recoupment hearings shall be conducted in exactly the same manner as provided in § 10.615 through § 10.622.

**§ 10.440 How does OWCP communicate its final decision concerning recovery of an overpayment, and what appeal right accompanies it?**

(a) OWCP will send a copy of the final decision to the individual from whom recovery is sought; his or her representative, if any; and the employing agency.

(b) The only review of a final decision concerning an overpayment is to the Employees' Compensation Appeals Board. The provisions of 5 U.S.C. 8124(b) (concerning hearings) and 5 U.S.C. 8128(a) (concerning reconsiderations) do not apply to such a decision. The pendency of an appeal with ECAB has no effect on the finality of the order being appealed; in the event ECAB reverses the final overpayment decision, any monies collected will be restored to the beneficiary.

**§ 10.441 How are overpayments collected?**

(a) When an overpayment has been made to an individual who is entitled to further payments, the individual shall refund to OWCP the amount of the overpayment as soon as the error is discovered or his or her attention is called to same. If no refund is made, OWCP shall decrease later payments of compensation, taking into account the probable extent of future payments, the rate of compensation, the financial circumstances of the individual, and any other relevant factors, so as to minimize any hardship. Should the individual die before collection has been completed, collection shall be made by decreasing later payments, if any, payable under the FECA with respect to

the individual's death. If no further benefits are payable with respect to the individual's death, OWCP may also file a claim with the estate of the individual or seek repayment of the overpayment through other means including referral of the debt to the Treasury Department.

(b) When an overpayment has been made to an individual who is not entitled to further payments, the individual shall refund to OWCP the amount of the overpayment as soon as the error is discovered or his or her attention is called to same. The overpayment is subject to the provisions of the Federal Claims Collection Act of 1966 (as amended) and may be reported to the Internal Revenue Service as income. If the individual fails to make such refund, OWCP may recover the same through any available means, including offset of salary, annuity benefits, or other Federal payments, including tax refunds as authorized by the Tax Refund Offset Program, or referral of the debt to a collection agency or to the Department of Justice.

## Subpart F—Continuing Benefits

### RULES AND EVIDENCE

**§ 10.500 What are the basic rules governing continuing receipt of compensation benefits and return to work?**

(a) Benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example, an employee is not entitled to compensation for any wage-loss claimed on a CA-7 to the extent that evidence contemporaneous with the period claimed on a CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available. Similarly, an employee receiving continuing periodic payments for disability was not prevented from earning